

Delegation Order 4-35 (Rev. 1)

Effective Date: March 24, 2008

- (1) **Enforcement of Report of Foreign and Financial Accounts (FBAR) Requirements**
- (2) **Authority:** Except as otherwise set forth in this order, to take any action the Commissioner is authorized to take under the Memorandum of Agreement and Delegation of Authority for Enforcement of FBAR Requirements with respect to enforcement of 31 U.S.C. § 5314, 31 C.F.R. § 103.24, 31 C.F.R. § 103.27, and 31 C.F.R. § 103.32, including, with respect to these provisions, the authority to assess and collect civil penalties under 31 U.S.C. § 5321 and 31 C.F.R. § 103.57 and to take any other action reasonably necessary for the enforcement of these and related provisions.
- (3) **Delegated to:** Operations Officer, Fraud/BSA, BSA Policy and Operations, CTR Operations.
- (4) **Redelegation:** These authorities may not be redelegated.
- (5) **Authority:** To investigate possible civil violations of the FBAR requirements.
- (6) **Delegated to:** GS-11 Revenue Agents (Small Business/Self-Employed), (Large & Mid-Size Business), and (Tax Exempt and Government Entities); GS-9 Tax Compliance Officers (Small Business/Self-Employed), (Large & Mid-Size Business), and (Tax Exempt and Government Entities); GS-9 Tax Auditors (Small Business/Self-Employed), (Large & Mid-Size Business), and (Tax Exempt and Government Entities); GS-9 Revenue Officers (Small Business/Self-Employed); and GS-11 Indian Tribal Governments Specialists (Tax Exempt and Government Entities).
- (7) **Redelegation:** These authorities may not be redelegated.
- (8) **Authority:** To issue, serve, and recommend enforcement of summonses pursuant to the summons power of 31 C.F.R. part 103, subpart F.
- (9) **Delegated to:** Director, Fraud/BSA; Area Directors (Small Business/Self-Employed);, Directors, Field Operations (Large & Mid-Size Business); Directors, Examinations (Tax Exempt and Government Entities), Director Indian Tribal Governments (Tax Exempt and Government Entities); Territory Managers (Small Business/Self-Employed), (Large & Mid-Size Business); Area Managers (Tax Exempt and Government Entities).
- (10) **Redelegation:** These authorities may not be redelegated.

- (11) **Authority:** To prepare and file proofs of claims for FBAR penalties and to take any appropriate action to protect the government's interest in bankruptcy, state and federal receiverships, and other state and federal insolvency actions
- (12) **Delegated to:** GS-9 Bankruptcy Specialist, Insolvency Unit (Small Business/Self-Employed).
- (13) **Redelegation:** These authorities may not be redelegated.
- (14) **Authority:** To make referrals to the Department of Justice for the institution of proceedings for collection, including bankruptcy proceedings, under 31 U.S.C. § 5321 pursuant to the Memorandum of Agreement and Delegation of Authority for Enforcement of FBAR Requirements.
- (15) **Delegated to:** General attorneys (Tax), Senior attorneys and Trial attorneys (Division Counsel, Small Business/Self-Employed), with the approval of Associate Area Counsel (Small Business/Self-Employed).
- (16) **Redelegation:** This authority may not be redelegated.
- (17) **Authority:** To make referrals to the Department of Justice for the institution of proceedings, except for proceedings in collection and bankruptcy, as to any FBAR matter under the Memorandum of Agreement and Delegation of Authority for Enforcement of FBAR Requirements; To provide legal advice and assistance under the Memorandum of Agreement and Delegation of Authority for Enforcement of FBAR Requirements.
- (18) **Delegated to:** General attorneys (Tax), Senior attorneys, Special Trial Attorneys and Trial attorneys (Division Counsel, Small Business/Self-Employed, Large & Mid-Size Business, and Tax Exempt & Government Entities), with the approval of Associate Area Counsel (Small Business/Self-Employed, Large & Mid-Size Business, and Tax Exempt & Government Entities).
- (19) **Redelegation:** This authority may not be redelegated.
- (20) **Authority:** To issue administrative rulings under 31 C.F.R. Part 103, Subpart G.
- (21) **Delegated to:** Senior Technical Reviewers and Assistant Branch Chiefs with the Offices of Associate Chief Counsel for matters within their respective jurisdictions.
- (22) **Redelegation:** This authority may not be redelegated.

- (23) **Authority:** Upon request of a person, to provide a pre-assessment hearing and to make the Service's final administrative determination concerning the existence or amount of an FBAR penalty owed or alleged to be owed by a person, and to provide the hearing required by 31 C.F.R. parts 5 and 900, receive and review evidence, and review the Service's determination.
- (24) **Delegated to:** Appeals Team Managers
- (25) **Redelegation:** This authority may not be redelegated.
- (26) **Authority:** To enter into and approve a written agreement with any person relating to the person's civil liability for an FBAR penalty.
- (27) **Delegated to:** Officials authorized to enter into and approve closing agreements.
- (28) **Redelegation:** This authority may not be redelegated.
- (29) **Source of Authority:** Memorandum of Agreement and Delegation of Authority for Enforcement of FBAR Requirements between Financial Crimes Enforcement Network and Internal Revenue Service; Treasury Order 180-01; Treasury Directives 15-41, 34-02; 31 C.F.R. § 5314, 31 C.F.R. § 5321; 31 C.F.R. § 103.24, 31 C.F.R. § 103.27, 31 C.F.R. § 103.32 and 31 C.F.R. § 103.57 and subparts F and G; 31 C.F.R. parts 5 and 900.
- (30) This order supersedes Delegation Order No. 4-35. To the extent that authority previously exercised consistent with this order may require ratification; it is hereby affirmed and ratified.
- (31) **Signed:** Linda E. Stiff, Acting Commissioner of Internal Revenue